



# 8

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gary W. Ferrell

PATENT APPLICATION

Serial No.: 09/614,485

Group Art Unit: 3662

Filed: July 10, 2000

Examiner: I.J. Lobo

For: METHOD AND DEVICE FOR MEASURING CAVITATION

**RECEIVED**

MAY 13 2004

Petition to the Commissioner for Revival**OFFICE OF PETITIONS**of an Application Unintentionally AbandonedUnder 37 C.F.R. § 1.137(b)

Hon. Commissioner for Patents  
Alexandria, VA 22313

Sir:

Applicant hereby petitions the Commissioner of Patents and Trademarks under 37 C.F.R. § 1.137(b) to revive the above-identified application. The application was unintentionally abandoned.

Under 37 C.R.F. § 1.137(b) :

If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application.... A grantable petition pursuant to this paragraph must be accompanied by:

- 1) The reply required to the outstanding Office action...;
- 2) The petition fee as set forth in § 1.17(m);
- 3) A statement that the entire delay in filing the required reply from the due date from the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

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SS:SEZ-016.Petition

4) Any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to paragraph (d) of this section.

Enclosed is a reply required to the outstanding Office action dated April 10, 2001.

Also enclosed is a check in the amount of \$1,330.00 for the required fee under 37 C.F.R. § 1.7 (m), in addition to a three-month extension of time fee.

Also enclosed is the Undersigned Practitioner's Statement to Revive Abandoned Application including a statement that "the entire delay in filing the required reply from the due date from the reply until the filing of a grantable petition pursuant to this paragraph was unintentional."

Further, as U.S. Application No. 09/614,485 was filed after June 8, 1995, Petitioner respectfully submits that a terminal disclaimer is not required.

As Applicants have met all of the requirements of 37 C.F.R. § 1.137(b), Petitioner respects favorable consideration of this petition to revive the terminated reexamination proceeding.

To expedite revival of the reexamination proceeding, Petitioner respectfully requests that the Examiner telephone the undersigned attorney concerning any questions relating to this petition or to the application in general.

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313

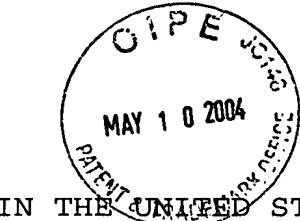
Signed: Sally Azevedo  
Typed Name: Sally Azevedo  
Date: May 6, 2004

Respectfully submitted,



Gina McCarthy  
Reg. No. 42,986

P.O. Box 2-E  
San Jose, CA 95109-0005  
(408) 297-9733



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gary W. Ferrell

PATENT APPLICATION

Serial No.: 09/614,485

Group Art Unit: 3662

Filed: July 10, 2000

Examiner: I.J. Lobo

For: METHOD AND DEVICE FOR MEASURING CAVITATION

Undersigned Practitioner's Statement to  
Revive Abandoned Application

Hon. Commissioner for Patents  
Alexandria, VA 22313

Sir:

A Petition to the Commissioner for Revival of an Application Unintentionally Abandoned Under 37 C.F.R. § 1.137 (b) is being filed herewith for the above-identified application. With regard to revival, the Manual of Patent Examining Procedure, section 711.03(c), page 700-170 (Feb. 2003) states:

To avoid delay in the consideration of the merits of a petition under 37 C.F.R. § 1.137(a) or (b) in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicant's should include:

(A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In the current instance, a petition was not filed within one year of the date of abandonment of the above-

identified application. Thus, a brief history of the application is presented as follows, in compliance with the above MPEP section.

1. The above-identified application having serial number 09/614,485 ("the Application") was filed on July 10, 2000. The inventor for the Application is Gary W. Ferrell who was, at the time of filing, Chief Technical Officer for L-Tech Corporation and later vice president of L-Tech corporationa which had an address at that time of 2632 Bayshore Parkway, Mountain View, California 94043 (Declaration of Gary W. Ferrell, Exhibit 1). Currently, Gary W. Ferrell is Vice President, of SEZ, America, Inc (Exhibit 1).
2. The application was property of L-Tech Corporation, as indicated in Exhibit 1.
3. On April 10, 2001 a first Office action (Exhibit 2) was sent to Timothy H. Gens, who was at that time patent attorney and Vice President, Legal for L-Tech Corporation (Exhibit 1). Mr. Gens provided the correspondence address as Timothy H. Gens at The Technology Law Group, 265 Cambridge Avenue, Box 61029, Palo Alto, CA 94306 (Exhibit 3, Utility Patent Application Transmittal and Exhibit 4, Declaration). Thus, the Office action was addressed to the provided address. A response to the Office action was due on October 10, 2001.
4. The application was drafted by Patent Attorney John Schipper who transferred the Application, at the request of Mr. Gens, to Mr. Gens (Exhibit 5). Mr. Schipper believed that Mr. Gens would tend to the prosecution of the Application (Exhibit 5).

5. The Technology Law Group was responsible for the prosecution of the Application (Exhibits 3 and 4). Mr. Schipper did not work for the Technology Law Group at any time (Exhibit 5).
6. No response to the Office action was filed, thus the Application became abandoned. A Notice of Abandonment (Exhibit 6) was mailed on November 20, 2001 to Timothy H. Gens at the Technology Law Group.
7. During May 2002, L-Tech Corporation was acquired by SEZ, America, Inc. (Exhibit 1 and Exhibit 7 Declaration of Susan F. Jones). The Application was acquired by SEZ America, Inc. in the acquisition (Exhibits 1 and 7). L-Tech Corporation believed the Application to be pending in the United States Patent and Trademark Office and believed that the prosecution of the Application was being tended to by Mr. Gens (Exhibits 1 and 7). L-Tech represented to SEZ America, Inc. that the Application was pending in the United States Patent and Trademark Office (Exhibits 1 and 7). SEZ America, Inc. purchased the Application, along with other assets (Exhibits 1 and 7).
8. The file for the Application could not be found, although other L-Tech patent files were delivered to SEZ America, Inc (Exhibit 1). SEZ America, Inc. regarded the file for the Application to be misplaced and not lost (Exhibit 1).
9. In October of 2003, Mr. Gens was discharged by SEZ, America, Inc. (Exhibit 1).
10. In November of 2003, the Law Offices of Schneck & Schneck ("the Law Firm") became the legal representative for SEZ America, Inc. with regard to its patent matters.

11. Around January 2004, the Law Firm ordered the file history for the Application, discovered that the Application had become abandoned, and notified SEZ America, Inc. shortly thereafter. It is not known by Mr. Ferrell or Ms. Jones whether or when Mr. Gens became aware of the abandonment of the Application (Exhibits 1 and 7).
12. As shown in Exhibit 1, prior to notification from the Law Firm, SEZ America Inc. was not aware that the Application had become abandoned and believed that prosecution matters of the Application had been tended to by Mr. Gens prior to his discharge.
13. At no time did L-Tech Corporation or SEZ America, Inc. intend for the application to become abandoned (Exhibits 1 and 7).
14. Since discovering that the Application had become abandoned, SEZ America, Inc. and the Law Firm have been studying the circumstances of the abandonment and reviewing the above-identified application and Office action to prepare a petition for revival and an appropriate response to the outstanding Office action.

The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph (37 C.F.R. section 1.37(b)) was unintentional.

As outlined in the Manual of Patent Examining Procedure, section 711.03(c), page 700-170 (Feb. 2003), Applicant has indicated that the delay in discovering the abandoned status occurred despite the exercise of due care or diligence on the part of the each of the owners. It was reasonable for SEZ America, Inc. and L-Tech Corporation to assume that patent attorney Timothy H. Gens would have tended

to prosecution of the Application during and up until the end of his employment as patent attorneys have a duty to do so. Apparently, he failed to do so. Apart from Mr. Gens, management of L-Tech Corporation and management of SEZ America, Inc. were not notified of the abandonment of the Application. Mr. Gens was discharged in October 2003 and shortly thereafter, in November 2003, SEZ America, Inc. retained the Law Firm to tend to prosecution of the Application. Thus, only a period of time of about one month passed from the termination of Timothy H. Gens to the retaining of the Law Firm. Though both L-Tech Corporation and SEZ America, Inc. exercised due care or diligence by retaining patent attorney Timothy H. Gens to tend to the Application, and by later retaining the Firm to tend to the Application, the Application became abandoned.

Accordingly, Applicant requests favorable consideration of this petition to withdraw the holding of abandonment.

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313

Signed: Sally Azevedo  
Typed Name: Sally Azevedo  
Date: May 6, 2004

Respectfully submitted,



Gina McCarthy  
Reg. No. 42,986

P.O. Box 2-E  
San Jose, CA 95109-0005  
(408) 297-9733



Exhibit 1

Declaration of Gary W. Ferrell

**RECEIVED**

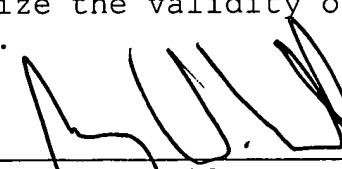
MAY 13 2004

**OFFICE OF PETITIONS**

1. My name is Gary W. Ferrell and I am now Vice President, Research, for SEZ America, Inc. and have been so since May 29, 2002.
2. I was previously the Vice President of L-Tech Corporation and am the inventor of U.S. Application having serial number 09/614,485 ("the Application") filed on July 10, 2000. The Application was property of L-Tech Corporation.
3. Timothy H. Gens was patent attorney and Vice President, Legal for L-Tech Corporation and then for SEZ America, Inc.
4. During May of 2002, L-Tech Corporation was acquired by SEZ America, Inc. During the acquisition, the Application and other assets were acquired by SEZ America, Inc. L-Tech Corporation represented to SEZ America, Inc. that the Application was pending in the United States Patent and Trademark Office. L-Tech Corporation believed that the Application was pending in the United States Patent and Trademark Office and believed that the prosecution of the Application was being tended to by Mr. Gens. The file for the Application could not be found, although other L-Tech patent files were delivered to SEZ America, Inc. SEZ America, Inc. regarded the file for the Application to be misplaced and not lost.
5. In October of 2003, Mr. Gens was discharged by SEZ America, Inc.

6. In November of 2003, the Law Offices of Schneck & Schneck ("the Law Firm") became the legal representative for SEZ America, Inc. with regard to its patent matters.
7. The Law Firm informed SEZ America, Inc. of the prior abandonment of the Application. I do not know whether or when Timothy H. Gens became aware of the abandonment of the Application. I conducted a search for the file of the Application but could find no such file.
8. Prior to notification by the Firm, SEZ America, Inc. believed the Application to be pending in the United States Patent and Trademark Office and that prosecution matters for the Application had been tended to by Timothy H. Gens prior to this discharge. At the time of his discharge, Mr. Gens was requested to return all property and documents of SEZ America, Inc.
9. My understanding and belief is that SEZ America, Inc. and L-Tech Corporation had at no time intended for the application to become abandoned.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

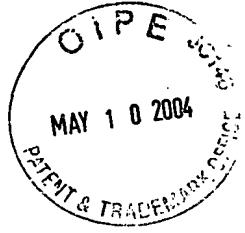


Gary W. Ferrell  
Vice President, Research  
SEZ America, Inc.

4 | 23 | 2004

Date

Exhibit 1



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OFFICE OF PETITIONS



UNITED STATES | DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/614,485 07/10/00 FERRELL

G L-TECH-112

PM82/0410

EXAMINER

TIMOTHY H GENS  
THE TECHNOLOGY LAW GROUP  
265 CAMBRIDGE AVE  
PO BOX 61029  
PALO ALTO CA 94306

LOBO, I

ART UNIT

PAPER NUMBER

3662

DATE MAILED:

04/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.	FERRELL, GARY W.	
09/614,485	Examiner	Art Unit
	Ian J. Lobo	3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on \_\_\_\_.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_ is/are objected to.

8) Claims \_\_\_\_ are subject to restriction and/or election requirement.

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### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.

18) Interview Summary (PTO-413) Paper No(s) \_\_\_\_.

19) Notice of Informal Patent Application (PTO-152)

20) Other: \_\_\_\_\_

**Notice of References cited**

09/614,485

Reexamination  
FERRELL, GARY W.

Examiner

Ian J. Lobo

Art Unit

3662

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification	
	A	US-5,074,150- V	12-1991	Tirelli et al	73	590
	B	US-4,564,422- V	01-1986	Simoneau et al	204	400
	C	US- -				
	D	US- -				
	E	US- -				
	F	US- -				
	G	US- -				
	H	US- -				
	I	US- -				
	J	US- -				
	K	US- -				
	L	US- -				
	M	US- -				

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification	
	N	- -					
	O	- -					
	P	- -					
	Q	- -					
	R	- -					
	S	- -					
	T	- -					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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MAY 13 2004

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OFFICE OF PETITIONS

Application/Control Number: 09/614,485  
Art Unit: 3662

### DETAILED ACTION

#### *Claim Rejections - 35 USC § 112*

1. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 specifies the step of "discriminating against cavitation events". However, the instant specification does not describe such a "discriminating" step and thus does not provide an enabling disclosure.

Further, with respect to claim 8, it is not clear where the "mapping" of cavitation events is described in the instant specification.

Finally, with respect to claim 12, it is questioned how an "electromagnetic pulse of energy" propagates through a fluid. It is questioned whether an acoustic pulse is what is propagated.

2. Claim 4 recites the limitation "the energy perturbations" in line 1. There is insufficient antecedent basis for this limitation in the claim.

#### *Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

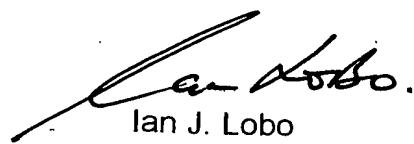
Application/Control Number: 09/614,485  
Art Unit: 3662

Page 3

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian J. Lobo whose telephone number is (703) 306-4161. The examiner can normally be reached on Mon - Fri, 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (703) 306-4171. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4195 for regular communications and (703) 306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.



Ian J. Lobo  
Primary Examiner  
Art Unit 3662

\*\*\*

April 4, 2001



Please type a plus sign (+) inside this box →

PTO/SB/01 (12-97)

Approved for use through 9/30/00. OMB 0651-0032

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**DECLARATION FOR UTILITY OR  
DESIGN  
PATENT APPLICATION  
(37 CFR 1.63)**

Declaration Submitted with Initial Filing       Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number		L-tech-112
First Named Inventor		Ferrell, Gary W.
<b>COMPLETE IF KNOWN</b>		
Application Number	/	
Filing Date		
Group Art Unit		
Examiner Name		

As a below named Inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**Method And Device For Measuring Cavitation**

the specification of which

(Title of the Invention)

is attached hereto

OR

was filed on (MM/DD/YYYY)  as United States Application Number or PCT International

Application Number  and was amended on (MM/DD/YYYY)  (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	<input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.
<input type="text"/>	<input type="text"/>	<input type="checkbox"/>

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Please type a plus sign (+) inside this box →

PTO/SB/01 (12-97)

Approved for use through 9/30/00. OMB 0651-0032

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

## DECLARATION — Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)

Additional U.S. or PCT international application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:  Customer Number  →  Place Customer Number Bar Code Label here  
OR  
 Registered practitioner(s) name/registration number listed below

Name	Registration Number	Name	Registration Number
Timothy H. Gens	29,153		
John Schipper	26,994		

Additional registered practitioner(s) named on supplemental Registered Practitioner Information sheet PTO/SB/02C attached hereto.

Direct all correspondence to:  Customer Number or Bar Code Label  OR  Correspondence address below

Name	Timothy H. Gens				
Address	The Technology Law Group				
Address	P.O. Box 61029				
City	Palo Alto	State	CA	ZIP	94306
Country	USA	Telephone	(650) 813-1800		Fax (650) 813-1505

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor:	<input type="checkbox"/> A petition has been filed for this unsigned inventor				
Given Name (first and middle if any)			Family Name or Surname		
Gary W.			Ferrell		
Inventor's Signature					Date 7/10/01
Residence: City	Half Moon Bay	State	CA	Country	USA
Post Office Address	608 Terrace Avenue				
Post Office Address					
City	Half Moon Bay	State	CA	ZIP	94019
Country	USA				

Additional inventors are being named on the \_\_\_\_\_ supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto



Exhibit 5

Declaration of John Schipper

1. My name is John Schipper and I am a patent attorney. I drafted U.S. Application having serial number 09/614,485 ("the Application") filed on July 10, 2000.
2. At the request of Timothy H. Gens, patent attorney and Vice President, Legal for L-Tech Corporation and then for SEZ America, Inc, I transferred the Application to Mr. Gens for prosecution.
3. I do not, nor have I ever, worked for the Technology Law Group.
4. I believed that Timothy H. Gens was taking over the prosecution of the Application at a time after I prepared the Application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

John Schipper  
John Schipper

29 April 2004

Date



Exhibit 7

Declaration of Susan F. Jones

1. My name is Susan F. Jones and I am Executive Vice President and C.O.O. for SEZ America, Inc. and have been at all times mentioned herein.
2. During May of 2002, SEZ America, Inc. acquired L-Tech Corporation. During the acquisition, U.S. Patent No. 09/614,485 ("the Application") having a filing date of January 29, 2001 and other assets were acquired by SEZ America Inc.
3. Attached is a status report for L-Tech Corporation prepared jointly by L-Tech Corporation and SEZ America, Inc. on September 27, 2001 and updated on April 25, 2002. The status report is entitled, "Confidential Intellectual Property Status Report for L-Tech Corporation".
4. The status report formed a part of the acquisition agreement between L-Tech Corporation and SEZ America, Inc.
5. The acquisition agreement stated that SEZ America, Inc. was acquiring intellectual property as described in the status report.
6. SEZ America, Inc. believed that it was acquiring from L-Tech the intellectual property as described in the status report.
7. Page 4 of the status reports lists information regarding the Application. L-Tech represented to SEZ America, Inc. that the Application was pending in the United States Patent and Trademark Office.



**UNITED STATES PATENT AND TRADEMARK OFFICE**



UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/614,485	07/10/2000	Gary W. Ferrell	L-tech-112	1939
7590	11/20/2001			
Timothy H Gens The Technology Law Group 265 Cambridge Ave PO Box 61029 Palo Alto, CA 94306			EXAMINER LOBO, IAN J	
			ART UNIT 3662	PAPER NUMBER

DATE MAILED: 11/20/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Abandonment**

Application No.

09/614,485

Applicant(s)

FERRELL, GARY W.

Examiner

Ian J. Lobo

Art Unit

3662

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

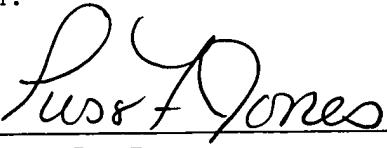
This application is abandoned in view of:

1.  Applicant's failure to timely file a proper reply to the Office letter mailed on 10 April 2001.
  - (a)  A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b)  A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c)  No reply has been received.
2.  Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a)  The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance.
  - (b)  The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c)  The issue fee and publication fee, if applicable, has not been received.
3.  Applicant's failure to timely file new formal drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a)  Proposed new formal drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b)  The proposed new formal drawings filed on \_\_\_\_\_ are not acceptable and the period for reply has expired.
  - (c)  No proposed new formal drawings have been received.
4.  The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5.  The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6.  The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7.  The reason(s) below:

  
Ian J. Lobo  
Primary Examiner  
Art Unit: 3662

8. Timothy H. Gens was patent attorney and Vice President, Legal for L-Tech Corporation and then for SEZ America, Inc.
9. In October of 2003, Mr. Gens was discharged by SEZ America, Inc.
10. In November of 2003, the Law Offices of Schneck & Schneck ("the Law Firm") became the legal representative for SEZ America, Inc. with regard to its patent matters.
11. The Law Firm informed SEZ America, Inc. of the prior abandonment of the Application. I do not know whether or when Timothy H. Gens became aware of the abandonment of the Application.
12. Prior to notification by the Law Firm, SEZ America, Inc., believed the Application to be pending in the United States Patent and Trademark Office and that prosecution matters of the Application had been tended to by Mr. Gens prior to his discharge.
13. My understanding and belief is that SEZ America, Inc. had at no time intended for the Application to become abandoned.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
\_\_\_\_\_  
Susan F. Jones  
Executive Vice President and C.O.O.  
SEZ America, Inc.

4-28-04  
\_\_\_\_\_  
Date

## CONFIDENTIAL INTELLECTUAL PROPERTY STATUS REPORT FOR L-TECH CORPORATION

Prepared September 27, 2001  
 Updated April 25, 2002

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PAGE 2

<u>Our Docket No.</u>	<u>Title/Inventors</u>	<u>Serial No.</u>	<u>Status</u>
L-TECH-100	Method and Apparatus for Cleaning Integrated Circuit Wafers/Gary W. Ferrell	08/276,202	U.S. Patent No. 5,505,785 4/9/96 <b>(TURBOSTRIP TECHNOLOGY)</b>
L-TECH-101	Method and Apparatus for Drying Objects Using Aerosols/Gary W. Ferrell	08/616,165	U.S. Patent No. 5,685,086 11/11/97 (AVID DRYER 2), which is a continuation in part of U.S. Serial No. 08/484,921 now, U.S. Pat. No. 5,653,045.
L-TECH-101CIP1	Method and Apparatus for Drying and Cleaning Objects Using Aerosols/Gary W. Ferrell and Thomas D. Spencer	08/624,689	Allowed/Abandoned - a continuation in part of U.S. Ser. 08/616,165 now U.S. Patent No. 5,685,086.
L-TECH-101-CIP/PCT	Method and Apparatus For Drying And Cleaning Objects Using Aerosols/ Gary W. Ferrell and Thomas D. Spencer	PCT/US97/03952	Int. Publn. No. WO 97/33702 9/18/97. Based on 08/616,165 and 08/624,689
L-TECH-101-CIP EUROPE	Method and Apparatus For Drying And Cleaning Objects Using Aerosols	European Patent No. 97916750.9	Prosecution Pending.
L-TECH-101-CIP CANADA	Method and Apparatus For Drying And Cleaning Objects Using Aerosols	Canadian Appln. 2,248,759	Prosecution Pending.
L-TECH-101-CIP ISRAEL	Method and Apparatus For Drying And Cleaning Objects Using Aerosols	Israel Appln. 126,189	Awaiting Publication
L-TECH-101-CIP JAPAN	Method and Apparatus For Drying And Cleaning Objects Using Aerosols	Japan. Appln. 9-532829	Request for examination by March 13, 2004
L-TECH-101-CIP KOREA	Method and Apparatus For Drying And Cleaning Objects Using Aerosols	Korea (PCT) 1998-707239	Korean Patent granted March 9, 2001
L-TECH-101CIP1CON	Methods for Drying and Cleaning Objects Using Aerosols/Gary W. Ferrell, and Thomas D. Spencer	08/984,413	U.S. Patent No. 5,964,958 10/12/99 (AVID DRYER 3) which is a continuation of 08/624,689 abandoned, which is continuation-in-part of 08/618,165 now Pat. No. 5,685,086.

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L-TECH-101CIP2	Methods For Drying And Cleaning Of Objects Using Aerosols And Inert Gases/Gary W. Ferrell, Thomas D. Spencer and Rob E. Carter	09/090,453	U. S. Patent No. 5,968,285 10/19/99 (AVID DRYER 4) continuation-in-part of 08/984,413 now Pat. No. 5,964,958.
L-TECH-101CIP2DIV	Improvements in Drying and Cleaning of Objects Using Controlled Aerosols and Gases/Gary W. Ferrell, Thomas D. Spencer and Rob E. Carter	09/417,203	U.S. Patent No. 6,270,584 8/7/01 (AVID DRYER 5) which is a continuation of 08/984,413 and 09/090,453
L-TECH-101CIP2 DIVCON	Improvements in Drying and Cleaning of Objects Using Controlled Aerosols and Gases/Gary W. Ferrell, Thomas D. Spencer and Rob E. Carter	09/924,124	Prosecution Pending.
L-TECH-102	Method and Apparatus For Drying Parts and Microelectronic Components Using Sonic Created Mist/Gary W. Ferrell	08/484,921	U.S. Patent No. 5,653,045 8/5/97 (AVID DRYER 1 also includes MICROCLEAN TECHNOLOGY)
L-TECH-105	Chemical Bath Apparatus/Gary W. Ferrell	08/879,576	U.S. Patent No. 5,909,741 6/8/99
L-TECH-106	Method for Removing Chemical Residues From a Surface/Gary W. Ferrell	08/850,272	U.S. Patent No. 6,036,785 3/14/00 (LIQUID BRUSH TECHNOLOGY)
L-TECH-106CON	Liquid Brush Surface Cleaner Apparatus/Gary W. Ferrell	09/347,475	Prosecution Pending.
L-TECH-107 (HFE)	Chemical Drying System/ Gary W. Ferrell	08/935,671	Abandoned as claims were included and expanded in CIP 1
L-TECH-107PCT	Improved Chemical Drying And Cleaning System/Gary W. Ferrell	PCT/US98/19793	Int. Publn. No. WO 99/15845 4/1/99. Based on 08/935,671, 09/034,369 and 09/109,460
L-TECH-107EP EUROPE	Improved Chemical Drying and Cleaning System/Gary W. Ferrell	98948428.2	European Patent Bulletin Biblio details published 9Aug 2000
L-TECH-107CA CANADA	Improved Chemical Drying and Cleaning System/Gary W. Ferrell	App. No. 2303979	Exam Request Due 22 Sep 2003
L-TECH-107CH CHINA	Improved Chemical Drying and Cleaning System/Gary W. Ferrell	App. No. 98811068.7	Exam Request Provided 23 Sep 2000
L-TECH-107JP JAPAN	Improved Chemical Drying and Cleaning System/Gary W. Ferrell	App. No. 2000-513098	Exam Request Due 22 Sep 2005
L-TECH-107KR KOREA	Improved Chemical Drying and Cleaning System/Gary W. Ferrell	App. No. 10-1999-0017283	Exam Request Due 14 May 2004

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L-TECH-107SG SINGAPORE	Improved Chemical Drying and Cleaning System/Gary W. Ferrell	App. No. 200001494-4	Prosecution Pending.
L-TECH-107 CIP1	Chemical Drying and Cleaning System/ Gary W. Ferrell, Robert J. Elson and John F. Schipper.	09/034,369	Patent No. 5,974,689 11/2/99, which is a continuation-in-part of 08/935,671. <b>(IMPINGING PLANE DRYER and HFE-LIQUID TEFLON TECHNOLOGY)</b>
L-TECH-107 CIP2	Enhanced Chemical Cleaning and Drying System/Gary W. Ferrell	09/100,525	CIP of 08/935,671. Amendment 1; Abandoned (HFE & Ox)
L-TECH-107 CIP3	Improved Chemical Drying and Cleaning System/Gary W. Ferrell, Robert J. Elson and John F. Schipper.	09/109,460	Patent No. 6,119,366 issued 9/19/00, which is a continuation in part of 08/034,369 <b>(IMPINGING PLANE DRYER and HFE-LIQUID TEFLON TECHNOLOGY)</b>
L-TECH-108	Removal of Oxide from Silicon Surfaces/Gary W. Ferrell	08/998,117	Prosecution Pending.
L-TECH-109	Chemical Film Cleaning and Drying/Gary W. Ferrell	09/342,685	Prosecution Pending.
L-TECH-109PCT	Chemical Film Cleaning and Drying/Gary W. Ferrell	PCT/US00/40285	Int. Publn. No. WO 01/00338 4 Jan 01 Based on 09/342,685 Ch II 30 mo deadline 29 Dec 2001
L-TECH-109 EP EUROPE	Chemical Film Cleaning and Drying/Gary W. Ferrell	European Appln. 00960116.2	Prosecution Pending.
L-TECH-109JP JAPAN	Chemical Film Cleaning and Drying	Japan Appln. 2001-506037	Prosecution Pending.
L-TECH-109KR KOREA	Chemical Film Cleaning and Drying/Gary W. Ferrell	Korea Appln. 10-2001-7016827	Prosecution Pending.
L-TECH-110	Copper Deposit Process/Gary W. Ferrell	09/371,296	Patent No. 6180524 issued 30 Jan 01 <b>(COPPER DEPOSIT PROCESS)</b>
L-TECH-110PCT	Copper Deposit Process/ Gary W. Ferrell	PCT/US00/21704	Int. Publn. No. WO 01/11098 15 Feb 01 Based on 09/371,296 Ch II 30 mo deadline 8 Feb 2002.

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L-TECH-110CON	Metal Deposit Process	09/774,303	Prosecution Pending.
L-TECH-110 AU AUSTRALIA	Copper Deposit Process	Australian Appln. 65321/00	Prosecution Pending.
L-TECH-110CA CANADA	Copper Deposit Process	Canadian Appln. 09/371,296	Prosecution Pending.
L-TECH-110CH CHINA	Copper Deposit Process	Chinese Appln.	Prosecution Pending.
L-TECH-110EP EUROPE	Copper Deposit Process	European Appln.	Prosecution Pending.
L-TECH-110JP JAPAN	Copper Deposit Process	Japan Appln. 2001-515343	Prosecution Pending.
L-TECH-110KR KOREA	Copper Deposit Process	Korea Appln. 7001895/2002	Prosecution Pending.
L-TECH-111	Improvements In Drying And Cleaning Objects Using controlled Aerosols And Gases/Gary W. Ferrell	PCT/US99/23 749	Ch II 30 mo Deadline 12 April 2002 156 countries designated A'VID DRYER TECHNOLOGY
L-TECH-111CH CHINA	Improvements in Drying and Cleaning Objects Using Controlled Aerosols/Gary W. Ferrell	China Appln.	Prosecution Pending.
L-TECH-111JP JAPAN	Improvements in Drying and Cleaning Objects Using Controlled Aerosols/Gary W. Ferrell	Japan Appln.	Prosecution Pending.
L-TECH-111KR KOREA	Improvements in Drying and Cleaning Objects Using Controlled Aerosols/Gary W. Ferrell	Korea Appln.	Prosecution Pending.
L-TECH-112	Method and Device for Measuring Cavitation/Gary W. Ferrell	09/614,485	ARGUS CAVITATION PROBE
L-TECH-112PCT	Method and Device for Measuring Cavitation/Gary W. Ferrell	PCT/US01/21 813	Enter national phase.
L-TECH-112CH CHINA	Method and Device for Measuring Cavitation/Gary W. Ferrell	China Appln.	Application filed, prosecution pending.
L-TECH-112EP EUROPE	Method and Device for Measuring Cavitation/Gary W. Ferrell	European Appln. 01/10/03.	Application to be filed before 30 month deadline
L-TECH-112JP JAPAN	Method and Device for Measuring Cavitation/Gary W. Ferrell	Japan Appln. 01/10/03.	Application to be filed before 30 month deadline

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L-TECH-112KR KOREA	Method and Device for Measuring Cavitation/Gary W. Ferrell	Korea Appln. 01/10/03.
L-TECH-113	Improved Chemical Drying and Cleaning System/Gary W. Ferrell	09/664,842 Continuation of 107CIP3 09/109,460.
L-TECH-114	Trace Substance Monitoring System/ Gary W. Ferrell and John F. Schipper	60/305728 <b>CERBERUS CONTAMINATION MONITOR</b>
L-TECH-115	Subtractive Lithographic Process for Copper Interconnect Technology	60/308138 <b>COPPER LITHOGRAPHY</b>
L-TECH-116	Membrane Wafer Dryer	60/308259 <b>MEMBRANE DRYER</b>